

1 UNITED STATES OF AMERICA
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF CALIFORNIA

4 -----
5 HONORABLE THOMAS J. WHELAN
6 UNITED STATES DISTRICT JUDGE PRESIDING
7 -----

8 UNITED STATES OF AMERICA,)
9))
10 PLAINTIFF,)
11))
12 VS.) NO. 10CR1372W
13))
14 JONATHAN LEAL-DEL CARMEN,)
15))
16 DEFENDANT.)
17)
18)_____

19 **SENTENCING**
20 REPORTER'S TRANSCRIPT OF PROCEEDINGS
21 **MARCH 14, 2011**
22 SAN DIEGO, CALIFORNIA
23

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1 APPEARANCES OF COUNSEL:

2 ON BEHALF OF PLAINTIFF:

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4 UNITED STATES ATTORNEY
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6 ASSISTANT UNITED STATES ATTORNEYS
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9 SAN DIEGO, CA 92101

10 ON BEHALF OF DEFENDANT:

11 FEDERAL DEFENDERS OF SAN DIEGO
12 BY: MR. HANNI M. FAKHOURY, ESQ.
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1 MADAM CLERK: 10CR1372, UNITED STATES OF AMERICA
2 VERSUS JONATHAN LEAL-DEL CARMEN, ON FOR SENTENCING.

3 MR. FAKHOURY: GOOD MORNING, YOUR HONOR, HANNI
4 FAKHOURY, FEDERAL DEFENDERS, FOR MR. LEAL-DEL CARMEN. HE IS
5 IN CUSTODY AND SHOULD BE OUT MOMENTARILY.

6 THE COURT: GOOD MORNING, SIR.

7 MR. MILLER: STEVE MILLER FOR THE UNITED STATES.

8 THE COURT: GOOD MORNING, SIR.

9 MR. FAKHOURY: YOUR HONOR, MR. LEAL-DEL CARMEN IS
10 NOW PRESENT BEFORE THE COURT, IN CUSTODY. HE IS BEING
11 ASSISTED BY THE COURT CERTIFIED INTERPRETER AND WE ARE READY
12 TO PROCEED THIS MORNING.

13 THE COURT: DO YOU WAIVE ARRAIGNMENT FOR JUDGMENT
14 AND SENTENCE?

15 MR. FAKHOURY: YES, YOUR HONOR.

16 THE COURT: IS THERE ANY LEGAL CAUSE NOT TO
17 PROCEED?

18 MR. FAKHOURY: NO, YOUR HONOR.

19 THE COURT: I HAVE READ AND CONSIDERED THE
20 PRE-SENTENCE REPORT, THE DEFENDANT'S OBJECTION TO THE
21 PRE-SENTENCE REPORT, THE ADDENDUM TO THE PRE-SENTENCE REPORT,
22 THE DEFENDANT'S SENTENCING MEMORANDUM, THE GOVERNMENT'S
23 SENTENCING MEMORANDUM, THE GOVERNMENT'S SENTENCING SUMMARY
24 CHART.

25 BY WAY OF TENTATIVE, I AGREE WITH THE PROBATION

1 DEPARTMENT AND THE GOVERNMENT THAT THE PLUS THREE ADJUSTMENT
2 FOR THE NUMBER OF ALIENS DOES APPLY. THE EVIDENCE AT TRIAL
3 INDICATED THERE WERE APPROXIMATELY 12 ALIENS BEING BROUGHT
4 INTO THE COUNTRY DURING THE COURSE OF HIS UNDERLYING CONDUCT
5 IN THIS OFFENSE.

6 I ALSO AGREE THE DEFENDANT'S NOT ENTITLED TO A
7 DOWNWARD ADJUSTMENT FOR ACCEPTANCE. HE CONTINUES TO DENY HIS
8 GUILT. HE TOLD THE PROBATION OFFICER HE DIDN'T BRING ANY
9 ALIENS INTO THE COUNTRY. HE'S CONTENDED AT TRIAL HE WAS
10 FACTUALLY INNOCENT AND HE STILL MAINTAINS THAT POSITION. SO,
11 HE TRULY HASN'T ACCEPTED RESPONSIBILITY.

12 WITH REGARD TO A DEPARTURE OR THE DISPARITY
13 ARGUMENT MADE BY MR. FAKHOURY WITH REGARD TO HIS
14 CO-DEFENDANT, I DON'T FIND THERE WOULD BE ANY DISPARITY IN
15 SENTENCING. I'D NOTE THAT HIS CO-DEFENDANT ACCEPTED
16 RESPONSIBILITY. HE PLEAD GUILTY TO ONE COUNT WHEREAS
17 MR. LEAL-DEL CARMEN WAS CONVICTED OF THREE COUNTS AND DENIES
18 ANY CULPABILITY WHATSOEVER.

19 HOWEVER, I THINK THE LOW END OF THE GUIDELINE RANGE
20 AS RECOMMENDED BY THE PROBATION DEPARTMENT IS SUFFICIENT. I
21 DON'T THINK THE GOVERNMENT'S RECOMMENDATION OF THE HIGH END
22 IS NECESSARY TO GET HIS ATTENTION. I WILL LISTEN TO
23 EVERYBODY.

24 MR. FAKHOURY: THANK YOU VERY MUCH, YOUR HONOR. MY
25 REQUEST, YOUR HONOR, IS ON A TIME SERVED SENTENCE ON THE

1 THREE REMAINING COUNTS ALL TO BE SERVED CONCURRENTLY. I KNOW
2 THE COURT IS VERY FAMILIAR WITH THIS CASE HAVING SAT THROUGH
3 THE TRIAL. FOR MR. LEAL, THIS EXPERIENCE HAS BEEN VERY MUCH
4 AN EYE OPENING ONE FOR HIM. THIS IS THE FIRST TIME MR. LEAL
5 HAS EVER BEEN IN JAIL. IT'S THE FIRST TIME HE HAS EVER BEEN
6 CONVICTED OF A FELONY CRIME. IT'S THE FIRST TIME HE HAS EVER
7 FACED ANY SORT OF IMMIGRATION REPERCUSSIONS IN THE SENSE THAT
8 HE'LL LIKELY FACE A FORMAL DEPORTATION HEARING. AND I THINK
9 MOST IMPORTANTLY, HE UNDERSTANDS THAT IF HE RETURNS TO THE
10 UNITED STATES WITH THIS CONVICTION ON HIS RECORD, HE IS
11 SUBJECT TO A 16-LEVEL ENHANCEMENT IF HE IS APPREHENDED AND
12 PROSECUTED UNDER SECTION 1326.

13 AND ALL OF THAT, YOUR HONOR, I THINK, GOES BACK TO
14 MY RECOMMENDED SENTENCE, WHICH IS, A TIME SERVED SENTENCE IS
15 ENOUGH TO GET MR. LEAL'S ATTENTION THAT HE IS NOT TO RETURN
16 TO THE UNITED STATES GIVEN HIS IMMIGRATION STATUS.

17 I KNOW THAT THE COURT'S OVERRULED MY OBJECTIONS TO
18 PSR. I JUST WANTED TO STRESS ONE POINT, YOUR HONOR, AND THAT
19 IS MR. LEAL HAS ALWAYS ACCEPTED RESPONSIBILITY FOR THE FACT
20 HE ILLEGALLY ENTERED THE UNITED STATES. THAT HIS ENTRY INTO
21 THIS COUNTRY WAS INAPPROPRIATE, IT WAS ILLEGAL AND IT WAS
22 IMPROPER.

23 WITH RESPECT, YOUR HONOR, TO CONTESTING HIS
24 INNOCENCE OR GUILT, YOUR HONOR, I JUST WANTED TO REMIND THE
25 COURT THAT ULTIMATELY MR. LEAL WAS ACQUITTED ON THREE OUT OF

1 THE SIX COUNTS. SO, THERE WAS AT LEAST, YOU KNOW, A GOOD
2 FAITH BASIS TO CONTEST THOSE CHARGES. THIS WAS NEVER AN
3 ATTEMPT BY HIM TO WASTE THE COURT'S TIME OR DRAG THE PROCESS
4 OUT LONGER THAN IT NEEDED TO.

5 I THINK A TIME-SERVED SENTENCE IS APPROPRIATE.
6 IT'S LONGER THAN THE SENTENCE HIS CO-DEFENDANT SERVED BECAUSE
7 OBVIOUSLY THE TWO WERE ARRESTED ON THE SAME DAY AND MR. GOMEZ
8 HAS ALREADY BEEN RELEASED FROM CUSTODY. SO, MR. LEAL IS
9 SERVING EXTRA TIME BECAUSE HE DID NOT PLEAD GUILTY. BUT I
10 WOULD NOTE ALSO MR. GOMEZ, THE CO-DEFENDANT, DID NOT PLEAD
11 GUILTY ON IN THIS CASE. HE DID PLEAD THE WEEK BEFORE TRIAL
12 AFTER THE MATERIAL WITNESSES DEPOSITION HAD BEEN CONCLUDED,
13 WHICH HE WAS PRESENT, AFTER THERE HAD BEEN MOTION HEARINGS IN
14 FRONT OF YOUR HONOR.

15 I CAN CERTAINLY APPRECIATE THAT MR. GOMEZ DID SAVE
16 GOVERNMENT RESOURCES AND TIME, BUT NOT TO THE EXTENT OF
17 SOMEONE WHO PLEAD GUILTY DURING A FAST TRACK STAGE OR BEFORE
18 ANY RESOURCES HAD BEEN SPENT ON THE CASE.

19 SO, THE GOVERNMENT HAD SPENT RESOURCES AND TIME ON
20 PROSECUTING MR. GOMEZ. HE RECEIVED A BENEFIT FOR THAT
21 BECAUSE HE HAS ALREADY BEEN RELEASED. MR. LEAL IS STILL HERE
22 IN CUSTODY, OBVIOUSLY, BUT I THINK IMPOSING ANY LONGER
23 SENTENCE IS NOT NECESSARY TO CONVINCE HIM THAT HIS ENTRY INTO
24 THE UNITED STATES, HIS ACTION IN THIS CASE WERE
25 INAPPROPRIATE, ILLEGAL AND HE CAN'T RETURN TO THIS COUNTRY.

1 I DON'T THINK WE ARE GOING TO SEE MR. LEAL AGAIN.
2 I THINK HE HAS HAD ENOUGH TIME IN CUSTODY TO KNOW THAT THIS
3 IS NOT HOW HE WANTS TO SPEND THE REST OF HIS LIFE. HE IS AN
4 OLDER INDIVIDUAL. HE SPENT MOST OF HIS LIFE WORKING AND
5 BEING A LAW ABIDING CITIZEN. HE DID LEAVE HERE IN THE UNITED
6 STATES ILLEGALLY FOR A PERIOD OF TIME, BUT HE NEVER REALLY
7 ENGAGED IN MUCH CRIMINAL CONDUCT APART FROM A MISDEMEANOR FOR
8 DRIVING WITHOUT A DRIVER'S LICENSE. HE WAS NEVER AN
9 INDIVIDUAL WHO ENGAGED IN VIOLENT BEHAVIOR OR HAD ANY ISSUES
10 WITH DRUGS OR ALCOHOL. I THINK THE COURT CAN GIVE HIM A
11 CHANCE, GIVE HIM TIME SERVED ON ALL COUNTS TO RUN CONCURRENT.
12 ON THAT, THE MATTER IS SUBMITTED.

13 THE COURT: THANK YOU. MR. MILLER.

14 MR. MILLER: YOUR HONOR, THE GREAT DISTINCTION
15 BETWEEN THIS DEFENDANT AND THE CO-DEFENDANT WAS DEMONSTRATED
16 IN THE MATERIAL WITNESS DEPOSITIONS. AND YOU CAN DEDUCE THAT
17 IT WAS THE CONTENTS OF THAT EVIDENCE INDUCED DURING THE
18 DEPOSITIONS THAT JUSTIFIED THE DISPOSITION.

19 IN THE DEPOSITIONS, THIS IS THE DEFENDANT THAT THE
20 MATERIAL WITNESSES IDENTIFIED AS MEETING HIM IN MEXICO. NOT
21 JUST AT THE BORDER, BUT AT TIJUANA, RIDING THE BUS, WHERE
22 THEY THEN WENT TO A GAS STATION AND MET ANOTHER GROUP WHERE
23 THE DEFENDANT WAS POINTED OUT AS THE PERSON WHO WAS GOING TO
24 COORDINATE THIS OTHER GROUP.

25 HE TRIES TO CHARACTERIZE THIS AS I'M JUST AN

1 UNDOCUMENTED ALIEN WHO'S DOING THIS FOR THE FIRST TIME.
2 WELL, UNDER THE CIRCUMSTANCES, THIS DEFENDANT WAS NECK DEEP
3 INTO AN ORGANIZATION THAT WAS COORDINATING THE GATHERING, THE
4 SOLICITING, THE TRANSPORTATION OF ALIENS INTO THE UNITED
5 STATES. THAT THE DEFENDANT WAS ACQUITTED OF THE THREE
6 COUNTS, THOSE WERE THREE YEAR MINIMUM MANDATORY COUNTS FOR
7 DOING THIS FOR PROFIT.

8 AND REALLY HIS CONDUCT THERE IS NO FUNCTIONAL
9 DIFFERENCE BETWEEN WHAT HE WAS ACQUITTED AND WHAT HE DID.
10 THE DEFENDANT, BY ALL RIGHTS, SHOULD BE SERVING FIVE YEARS IN
11 PRISON BECAUSE OF THE EXTENT OF WHAT HE WAS DOING.

12 IN THIS CASE THIS COURT IS IMPLYING TO GIVE HIM THE
13 LOW END. THIS GOVERNMENT IS RECOMMENDING THE HIGH END, BUT
14 THAT'S BECAUSE UNLIKE SOME GUY WHO HAPPENS TO BE IN A GROUP
15 AND SAYS HEY, WHY DON'T YOU TAKE GUYS ACROSS THE FENCE, THIS
16 GUY, THIS PARTICULAR DEFENDANT, WAS MEETING THE PEOPLE,
17 SOLICITING THE PEOPLE, RIDING WITH THE PEOPLE, AND THEN WHEN
18 HE GOT TO A LOCATION, PREVIOUS GROUPS HAD ALREADY COORDINATED
19 TO MEET WITH THAT GUY, THIS DEFENDANT, IN ORDERED TO GUIDE
20 THEM INTO THE UNITED STATES. AND WHERE THEY GATHERED WAS
21 AWARE -- WELL AWAY FROM THE FENCE.

22 SO, ONCE THEY GATHERED AT THE GAS STATION, HE'S THE
23 ONE THAT TOOK THEM UP THROUGH THE HINDER LANDS INTO THE
24 UNITED STATES. AND THIS IS THE MAN THAT SAID YOU ALL STAY
25 HERE, WHILE HE AND THE DEFENDANTS WENT AND HID IN ORDER TO

1 AVOID APPREHENSION.

2 THIS ISN'T LIKE THE SITUATION WHERE THE DEFENDANT
3 WOKE UP ONE DAY AND SAID, I'M THINK I'M GOING TO COME TO THE
4 UNITED STATES. THIS MAN HAS BEEN INVOLVED IN IT FOR A LONG
5 TIME AND HE WAS THE LEADING VOICE IN TRANSPORTING THESE
6 ALIENS.

7 THE COURT: THANK YOU. MR. LEAL, IS THERE ANYTHING
8 YOU WANT TO SAY, SIR? YOU DON'T HAVE TO SAY ANYTHING BUT YOU
9 CAN IF YOU WANT TO. IT'S ENTIRELY UP TO YOU, SIR.

10 THE DEFENDANT: ALL I AM SAYING IS THAT, YES, I
11 MADE A MISTAKE BY COMING INTO THIS COUNTRY ILLEGALLY. I
12 NEVER BROUGHT IN PEOPLE, BUT THE MAN STANDING NEXT TO ME SAYS
13 THAT I AM TRAFFICKING, BUT I'VE NEVER CAUSED ANY HARM. I
14 HAVEN'T EVEN -- BUT, YEAH, IT IS UP TO YOU, YOUR HONOR, TO
15 MAKE THE DECISION AS TO MY CASE.

16 THE COURT: ALL RIGHT. THANK YOU, SIR. ANYTHING
17 FURTHER, MR. FAKHOURY?

18 MR. FAKHOURY: YOUR HONOR, THE ONLY THING, I WOULD
19 OBJECT TO -- I WOULD OBJECT TO ANY USE OF ACQUITTED CONDUCT
20 JUSTIFY OR INCREASE MR. LEAL'S SENTENCE. AND WITH THAT, YOUR
21 HONOR, THE MATTER IS SUBMITTED. AND I WOULD RECOMMEND
22 PLACEMENT IN THE WESTERN REGION.

23 THE COURT: I CLEARLY WILL NOT AT ALL CONSIDER THE
24 FINANCIAL GAIN COUNTS WHICH HE WAS ACQUITTED.

25 MR. FAKHOURY: THANK YOU, YOUR HONOR.

1 THE COURT: FIRST, JUST TO RESPOND BRIEFLY, YOUR
2 CLIENT, AS YOU ARE AWARE, WASN'T CHARGED WITH ILLEGAL ENTRY.
3 I KNOW HE ADMITS THAT HE ILLEGALLY ENTER THE UNITED STATES.
4 BUT WHAT HE WAS CHARGED WITH WAS ALIEN SMUGGLING,
5 SPECIFICALLY WITH BEING A FOOT GUIDE. THE JURORS CONVICTED
6 HIM OF ALL THREE COUNTS OF BEING A FOOT GUIDE IN THE ALIEN
7 SMUGGLING VENTURE. THE EVIDENCE, IN THE COURT'S MIND,
8 CLEARLY SUPPORTS THEIR VERDICT. THEREFORE, I STILL THINK
9 THAT THE LOW END OF THE GUIDELINE RANGE IS A SUFFICIENT
10 SENTENCE.

11 I DON'T THINK THERE IS ANY NEED TO TREAT HIM MORE
12 HARSHLY BECAUSE OF THE FACT HE WENT TO TRIAL. I DON'T TREAT
13 DEFENDANTS HARSHLY FOR GOING TO TRIAL. HE'S A CRIMINAL
14 HISTORY CATEGORY ONE. WHETHER OR NOT HE HAS DONE THIS FOR A
15 CONSIDERABLE PERIOD OF TIME, AS THE GOVERNMENT SUGGESTS, I
16 DON'T KNOW. BUT I'M NOT SENTENCING HIM AS IF HE HAS DONE IT
17 FOR A CONSIDERABLE PERIOD OF TIME. I'M JUST SENTENCING HIM
18 ON THE CONDUCT FOR WHICH HE STANDS CONVICTED.

19 SO, IN THIS MATTER, THE COURT FINDS THAT THE BASE
20 OFFENSE LEVEL FOR ADVISORY PURPOSES UNDER THE GUIDELINES THE
21 BASE OFFENSE LEVEL IS 12. BECAUSE OF THE NUMBER OF ALIENS
22 BEING BETWEEN SIX AND TWENTY-FOUR, SPECIFICALLY THE NUMBER OF
23 ALIEN BEING 12, THE BASE OFFENSE LEVEL IS INCREASED BY THREE.
24 HE HAS A CRIMINAL HISTORY SCORE OF ZERO, A CRIMINAL HISTORY
25 CATEGORY OF ONE. THE RESULTING GUIDELINE RANGE WOULD BE FROM

1 18 TO 24 MONTHS. MINDFUL OF THE FACT THAT THE STATUTORY
2 MAXIMUM FOR EACH COUNT HE WAS CONVICTED OF, SPECIFICALLY
3 COUNTS TWO, FOUR AND SIX, IS THE SAME STATUTORY MAXIMUM BEING
4 TEN YEARS. REVIEWING THE CRITERIA SET FORTH IN TITLE 18,
5 SECTION 3553(A), I FIND THE LOW END OF THE ADJUSTED GUIDELINE
6 RANGE WOULD BE A SUFFICIENT SENTENCE BUT NOT GREATER THAN
7 NECESSARY.

8 THEREFORE, PURSUANT TO THE SENTENCING REFORM ACT OF
9 1984, IT WOULD BE THE JUDGMENT AND SENTENCE OF THIS COURT
10 THAT THE DEFENDANT BE AND HEREBY IS COMMITTED TO THE CUSTODY
11 OF THE BUREAU OF PRISONS FOR A TERM OF IMPRISONMENT OF 18
12 MONTHS. THIS TERM IS IMPOSED CONCURRENTLY AS TO COUNTS TWO,
13 FOUR AND SIX.

14 FOLLOWING YOUR RELEASE FROM CUSTODY, YOU WOULD ON
15 SUPERVISED RELEASE FOR A PERIOD OF THREE YEARS, MR. LEAL. I
16 WILL IMPOSE ALL THE STANDARD TERMS AND CONDITIONS OF
17 SUPERVISION AND JUST ONE SPECIAL CONDITION. THE SPECIAL
18 CONDITION, SIR, YOU'RE NOT TO ILLEGALLY ENTER THE UNITED
19 STATES FOR THE THREE YEARS YOU ARE ON SUPERVISED RELEASE.

20 THE STATUTORY FIND IS NOT IMPOSED DUE TO HIS
21 INABILITY TO PAY. I WILL IMPOSE THE MANDATORY SPECIAL
22 ASSESSMENT OF \$100 PER COUNT FOR A TOTAL OF \$300 IN SPECIAL
23 ASSESSMENTS.

24 MR. LEAL, LET ME ADVISE YOU OF YOUR APPELLATE
25 RIGHTS. YOU HAVE AN ABSOLUTE RIGHT TO APPEAL FROM THE

1 JUDGMENT OF THE COURT IN IMPOSING THE SENTENCE ON YOU TODAY.
2 THAT MEANS IF YOU WISH TO APPEAL, YOU MUST FILE A WRITTEN
3 NOTICE OF YOUR INTENT TO APPEAL WITHIN 14 DAYS OF THE DATE
4 JUDGMENT IS ENTERED. THAT NOTICE MUST BE IN WRITING AND
5 SIGNED BY, YOUR ATTORNEY OR BOTH OF YOU. IT MUST SPECIFY
6 WHAT IT IS YOU ARE APPEALING FROM, WHETHER IT IS FROM THE
7 WHOLE JUDGMENT OR JUST PART OF THE JUDGMENT. IF YOU DO
8 APPEAL, YOU HAVE A RIGHT TO A COMPLETE TRANSCRIPT OF THE
9 TRIAL PROCEEDINGS. IF YOU APPEAL AND DO NOT HAVE THE
10 FINANCIAL ABILITY TO RETAIN THE SERVICES OF AN ATTORNEY TO
11 REPRESENT YOU ON APPEAL, THE APPELLATE AUTHORITIES WILL FIND
12 COUNSEL TO REPRESENT YOU.

13 IN THAT REGARD IT IS YOUR OBLIGATION TO KEEP THE
14 APPELLATE AUTHORITIES ADVISED AT ALL TIMES OF YOUR CURRENT
15 ADDRESS SO THEY CAN BE IN TOUCH WITH YOU TO ADVISE YOU OF
16 YOUR APPOINTED COUNSEL. DO YOU UNDERSTAND WHAT I JUST TOLD
17 YOU, SIR?

18 THE DEFENDANT: YES.

19 THE COURT: DO YOU UNDERSTAND THAT UNLESS YOU FILE
20 YOUR WRITTEN NOTICE OF YOUR INTENT TO APPEAL IN THIS COURT
21 AND NOT THE APPELLATE COURT, WITHIN 14 DAYS OF THE DATE
22 JUDGMENT IS ENTERED, YOU LOSE THAT APPELLATE RIGHT FOREVER?

23 THE DEFENDANT: YES.

24 THE COURT: DO YOU HAVE ANY QUESTIONS YOU WANT TO
25 ASK ME ABOUT YOUR APPELLATE RIGHTS?

1 MR. FAKHOURY: CAN I SPEAK TO MR. LEAL?

2 THE COURT: SURE. GO RIGHT AHEAD.

3 MR. FAKHOURY: HE UNDERSTANDS YOUR APPEAL RIGHTS,
4 YOUR HONOR.

5 THE COURT: DO YOU UNDERSTAND YOUR RIGHTS, SIR?

6 THE DEFENDANT: YES.

7 THE COURT: ALL RIGHT. DO YOU REQUEST THE WESTERN
8 REGION, MR. FAKHOURY?

9 MR. FAKHOURY: YES, YOUR HONOR.

10 THE COURT: I WILL RECOMMEND HE BE HOUSED IN THE
11 WESTERN REGION. GOOD LUCK, MR. LEAL.

12 MR. FAKHOURY: THANK YOU, YOUR HONOR.

13 THE DEFENDANT: THANK YOU.

14 THE COURT: YOU'RE WELCOME, SIR.

15 MR. FAKHOURY: THREE YEARS SUPERVISED RELEASE FOR
16 EACH COUNT?

17 THE COURT: CONCURRENT, YES.

18 (WHICH WERE ALL THE PROCEEDINGS

19 HELD IN THE ABOVE ENTITLED CAUSE.)

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1 CERTIFICATE OF REPORTER
2
3

3 COUNTY OF SAN DIEGO)
4)
5 STATE OF CALIFORNIA)

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7 I, MELISSA A. PIERSON, OFFICIAL COURT REPORTER, REGISTERED
8 PROFESSIONAL REPORTER, IN AND FOR THE UNITED STATES DISTRICT
9 COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA, DO HEREBY
10 CERTIFY THAT I REPORTED, STENOGRAPHICALLY, THE FOREGOING
11 PROCEEDINGS AT THE TIME AND PLACE HEREINBEFORE SET FORTH;
12 THAT THE SAME WAS THEREAFTER REDUCED TO TYPEWRITTEN FORM BY
13 MEANS OF COMPUTER-AIDED TRANSCRIPTION; AND I DO FURTHER
14 CERTIFY THAT THIS IS A TRUE AND CORRECT TRANSCRIPTION OF MY
15 STENOGRAPHIC NOTES.

16
17
18 DATE: 5-6-11
19
20 S:/MELISSA A. PIERSON

21 MELISSA A. PIERSON, CSR 12499 RPR
22 FEDERAL OFFICIAL COURT REPORTER
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